

IN THE JUSTICE OF THE PEACE COURT
OF THE STATE OF DELAWARE IN AND FOR KENT COUNTY
COURT NO. 16
480 Bank Lane
Dover, DE 19904

Riverside Mobile Home Park, :
 :
Plaintiff-Appellant, :
 : Case Number
v. : JP16-10-001056
 :
Eugene Hammond, :
 :
Defendant-Appellee. :

Riverside Mobile Home Park, by John Hensley, authorized by certificate of representation pursuant to Supreme Court Rule 57.

Eugene Hammond, *pro se*.

ORDER

Submitted: April 13, 2010

Decided: May 6, 2010

This landlord-tenant action, filed March 2, 2010, was originally disposed of after trial on March 31, 2010, when the Court entered an order finding against the plaintiff-landlord, ruling it "failed to enter into evidence the 5 Day Letter, proof of mailing, and an copy of the signed lease," and thus "fail(ed) to prove their case by a preponderance of the evidence."¹ The plaintiff-landlord filed a timely appeal to a three-judge panel of the Justice of the Peace Court, sitting pursuant to 25 Del. C. § 5717(a).² Trial *de novo* was held on April 13, 2010. This is the decision of the Court after trial.

¹ *Riverside Mobile Home Park v. Hammond*, Del. J.P., C.A. No. JP16-10-001056, Sherlock, J. (March 31, 2010).

² 25 Del. C. § 5717(a) provides in pertinent part: "A party aggrieved by the judgment rendered in such proceeding may request in writing, within 5 days after judgment, a trial *de novo* before a special court comprised of 3 justices of the peace other than the justice of the peace who presided at the trial, as appointed by the chief magistrate or a designee, which shall render final judgment, by majority vote."

Facts

Defendant Eugene Hammond ("Mr. Hammond") and his wife, Patricia L. Hammond ("Mrs. Hammond")³ entered into a lease agreement with Riverside Mobile Home Park ("Riverside") on April 1, 2009 to rent Lot B-9 within the park beginning that date.⁴ Already situated on the lot was a mobile home which had been on the lot for some lengthy period of time, owned and occupied by another park tenant prior to the time when Mr. and Mrs. Hammond entered into their lot lease and took occupancy. Mr. and Mrs. Hammond testified that Pepper Bryan, owner of Riverside Mobile Home Park, had recently purchased the mobile home from that previous long-time tenant. Riverside did not dispute or address this testimony.

Mr. and Mrs. Hammond testified they also entered into a conditional sales agreement with Pepper Bryan for purchase of the mobile home. The Hammonds presented no physical evidence of the agreement, such as a written document, but Mr. Hammond testified he and his wife signed a "purchase agreement" with Ms. Bryan. There was no evidence regarding the current repayment status of their contract with Ms. Bryan. Thus, the exact terms and conditions of the agreement are not in evidence. However, the Hammonds testified that Ms. Bryan held title to the mobile home, and they testified that, as of the date of trial, the title had not been transferred to them. Mr. and Mrs. Hammond also testified that the agreement was predicated on Ms. Bryan first having repairs made to the mobile home. Other testimony, undisputed, was that she spent several thousand dollars having those repairs made. On cross-examination, Mr. Hammond testified that a new ceiling was not installed. However, the Hammonds' testimony indicated they were very satisfied with their purchase of the mobile home, and they made additional improvements of their own once they assumed occupancy. Riverside did not dispute or rebut the Hammond's testimony regarding the conditional sale agreement or the scope of the repairs.

On December 19, 2009, after a severe snowstorm, the roof of the mobile home collapsed. Authorities from the City of Dover and the Dover Fire Department deemed the mobile home unsafe and uninhabitable, shut down electrical power to the home, and barred the Hammonds from occupying the home. The Red Cross and a local church provided the Hammonds with living arrangements for a very short while, and the Hammonds have been living with family and friends since those arrangements ended. As of December 19, 2009, the Hammonds were current with their lot rent, and they paid January 1, 2010 rent as well. They admit they have not paid rent on the lot since they paid the January rent.

³ Mrs. Hammond is not a party to the suit.

⁴ Lot rent was \$298.00 per month (including a \$1.50 Delaware Relocation Fee), with a late fee of \$25.00 payable if rent was not paid within five days of the due date.

Riverside complains that the Hammonds have failed to pay lot rent for the months of February, March, and April 2010. Riverside asks that the Court award this unpaid rent, along with late fees and court costs, and that the Court award possession of the lot to Riverside. The Hammonds defend their failure to pay rent by asserting the roof collapse was not their fault or responsibility and that they were forced by the conditions and the local governmental authorities to vacate the premises.

Discussion

25 Del. C. Chapter 70 governs the rental of lots in manufactured home communities.⁵ The statute permits landlords to file actions in Justice of the Peace Court for, *inter alia*, unpaid rent and summary possession of the lot for a tenant's failure to pay rent in a timely manner by following the steps outlined in 25 Del. C. Chapter 57 entitled *Summary Possession*. On the other hand, if some condition exists that "deprives a tenant of a substantial part of the benefit and enjoyment of the bargain pursuant to the rental agreement," 25 Del. C. § 7009(b) permits the tenant to terminate the rental agreement and vacate the lot.⁶ Similarly, 25 Del. C. § 5309(a)(1) permits a tenant whose rental unit is "damaged or destroyed by fire or casualty" to "immediately quit the premises."

The tenants in this case admit they have not paid the lot rent since the payment made for January 2010. However, they assert that the collapse of the mobile home's roof and the fact that they were thereafter prohibited from inhabiting the home presented conditions that fall under the provisions of either section 7009(b) or 5309(a)(1), or both, and therefore relieve them of any liability for lot rent. They also assert that the manufactured home roof might not have collapsed if Ms. Bryan had completed the renovation of the home in a structurally sound manner. Finally, they assert that Ms. Bryan did not transfer title of the mobile home to them as they believe was required by law, and that this failure to transfer title would relieve them of liability.⁷

The landlord claims the Hammonds did not provide written notice of the condition that caused them to vacate the premises. In both instances permitting immediate termination of the rental agreement by the tenants, notice to the landlord is required, but the notice is not required in writing by the tenant if the landlord had *actual* notice of the extreme condition precipitating the tenant's early termination. Testimony at trial showed Riverside was made aware of the collapse and the Hammonds' subsequent removal from the home at the time it occurred, on December 19, 2009 and thus had actual notice of the condition.

⁵ 25 Del. C. § 7001.

⁶ Under section 7009(b), vacating the lot includes "removing the tenant's own manufactured home and all personal possessions."

⁷ The Court has considered the various arguments that might arise from a failure to transfer title, including that damages to the mobile home might be Ms. Bryan's responsibility as the sole owner of the mobile home, or that failure to transfer title would indicate the payments on the conditional sales contract were actually rent payments and that Pepper Bryan owned the mobile home.

Thus, the Court reaches the issue of whether the Hammonds may rely on the cited provisions of the Landlord-Tenant Code as a valid defense to their early termination of the lot lease. Had the Hammonds been renting both the mobile home and the lot from the landlord, the real estate and its fixture (the mobile home) would have been owned by the landlord, and the damage sustained by the mobile home, along with the fact that the City of Dover barred occupancy at that point, would have been sufficient to invoke section 5309 of Title 25. The tenants would not have been liable for any rent after they vacated the property on December 19, 2009.

On the other hand, if the Hammonds had been purchasing both the mobile home and the real estate together under a conditional sales contract, 25 Del. C. § 314(d)(3) would have permitted the Court to convert the conditional sales contract to a rental agreement. Such conversion would have permitted the Court to conduct an equitable accounting to return both the buyer and seller to their original condition, if the underlying default were simply nonpayment of rent. Section 314 does not, however, address the issue of liability for damages to the property. Instead, the common law doctrine of equitable conversion would likely have applied to the loss suffered if the real estate improvements (the mobile home) were damaged as they were in this case. This doctrine "make(s) the purchaser the equitable owner of the land and the seller the equitable owner of the purchase money;...the purchaser...takes the benefit of all subsequent increase in value and, at the same time, becomes subject to all losses not occasioned by the fault of the seller." *Briz-Ler Corp. v. Weiner*, 171 A.2d 65 (Del. 1961). In other words, if the agreement had involved a purchase of real estate, the Hammonds would have to assume the loss caused by the roof collapse if the collapse was not the fault of the seller, Ms. Bryan.

The facts of this case are different from either of these scenarios. The Hammonds were not *renting* the mobile home. They were *buying* it from Ms. Bryan and renting only the lot upon which it was placed. The mobile home was the subject of a conditional sales contract for *personal* property, or "goods", not *real* property.⁸ The Hammonds were making payments to Ms. Bryan, and they expected to receive title to the mobile home at some future time, presumably once they completed payment of the entire purchase price. Further, the mobile home was not placed on real estate being purchased by or owned by Mr. Hammond. It was placed on real estate he was renting in a mobile home park and thus not available for purchase. As such, the conditional sales agreement did not concern the purchase of real estate and, therefore, cannot convert to a landlord-tenant agreement under the provisions of section 314(d)(3). Regardless, no evidence was presented to indicate Mr. Hammond defaulted on the conditional sales agreement for the mobile home. The default is alleged only regarding the lot rent. Additionally, 25 Del. C. § 5102(5) excludes such arrangements from the Residential Landlord-Tenant Code: "The following arrangements are not intended to be governed by this Code....: (5) A rental

⁸See 6 Del. C. § 2-105(1) defining "goods" as "all things...which are movable at the time of identification to the contract for sale...." See generally 67 Am. Jur. 2d Sales § 62. This mobile home, in particular, was movable by definition in that it was placed on rented land.

agreement for ground upon which improvements were constructed or installed by the tenant and used as a dwelling, where the tenant retained ownership or title thereto, or obtains title to existing improvement on the property."⁹

Similar to the rule that the purchaser of *real estate* under a conditional sales agreement assumes the risk of loss, the purchaser of *goods*, in this case a mobile home, under a conditional sales agreement also assumes the risk of loss when the property itself is in the possession of the purchaser and the purchaser thus has control over the property.¹⁰

Next, Mr. Hammond argues that Ms. Bryan had not completed an assignment of certificate of title for the mobile home, passing title to Mr. and Mrs. Hammond. In Delaware, a certificate of title is not conclusive evidence of ownership of a vehicle. *Cammille v. Sanderson*, 101 A.2d 316 (Del. Super. 1953). Instead, other facts determined on a case-by-case basis may indicate that ownership has passed to a person not named on the certificate of title. Specifically, the fact that the vehicle in question is covered by a conditional sales agreement is addressed by 25 Del. C. § 101(45), which states in pertinent part:

"Owner" means a person who holds the legal title of a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional...lessee..., then such conditional ...lessee...shall be deemed the owner for the purposes of this title.

(Emphasis added). Section 101(45) of Title 25 and the rule that a certificate of title is not conclusive evidence of ownership of a vehicle both apply to mobile homes as well as to motor vehicles.¹¹ The Court finds that the conditional sales agreement, to the extent evidence was available regarding that agreement, passed ownership and possession of the property in question to the Hammonds. An assignment of certificate of title was not necessary until payment in full was made to Ms. Bryan (unless of course the agreement provided otherwise, and no evidence was produced at trial nor was an argument made that such a provision existed).

⁹ Such arrangements are governed by 25 Del. C. Ch. 70. As described within this order, chapter 70 offers no defense for the Hammonds because the damage was to their personal property, not to the lot they rented from Riverside.

¹⁰ Am. Jur. 2d Sales § 62 and 6 Del. C. § 2-509(3).

¹¹ 25 Del. C. § 316 lists exceptions to Delaware's motor vehicle code. Mobile homes are not included as an exception to the code. In addition, the definition of "vehicle," contained at 25 Del. C. § 101(80), states that the word "vehicle" as used in Title 21 means "every device in, upon or by which any person or property is or may be transported or drawn upon a public highway...." A mobile home may be transported or drawn upon a public highway, and indeed, its chassis is built for such transport.

Finally, Mr. Hammond argued, without evidence to support his contention, that Ms. Bryan's renovation efforts did not result in a structurally sound roof. He presented no evidence or witnesses to provide factual support to this contention.

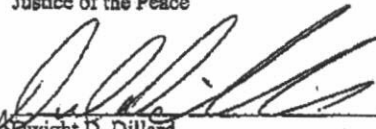
Conclusion

For the reasons stated in this order, Mr. Hammond's defense to the landlord-tenant action brought against him by Riverside fails. The risk of loss for the mobile home under the sales agreement between the Hammonds and Ms. Bryan passed from Ms. Bryan to the Hammonds when the Hammonds took possession on or about April 1, 2009. The Hammonds lived in the property, made additional improvements, and considered it their home. Riverside bears no responsibility for the loss incurred as a result of the roof collapse and subsequent condemnation of the mobile home. Therefore, Mr. Hammond is not absolved of the obligation to pay lot rent.

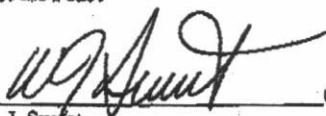
NOW, THEREFORE, IT IS ORDERED, this 6th day of May, 2010, that judgment is entered against the defendants and in favor of the plaintiff in the amount of \$969.00 plus accrued rent and court costs. Possession of the rental lot is awarded to the plaintiff. The clerk shall provide to the parties copies of instructions regarding removal of mobile homes from rented lots.



Debora Foor
Justice of the Peace



Dwight D. Dillard
Justice of the Peace



William J. Sweet
Justice of the Peace